

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

JOHN LINDH, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 2:09-CV-00215 JMS-MJD
)	
WARDEN, FEDERAL CORRECTIONAL)	
INSTITUTION, TERRE HAUTE,)	
INDIANA,)	
)	
Defendant.)	

Plaintiffs' Second Motion for Summary Judgment

Come now plaintiffs, by their counsel, and say that:

1. This case concerns whether defendant's denial of daily congregate prayer to the Muslim prisoners confined to the Communications Management Unit within the Federal Correctional Institution in Terre Haute violates the Religious Freedom Restoration Act, 42 U.S.C. § 2000bb-1.
2. There are no contested issues of material fact in this cause and the law is with the plaintiffs and against the defendant.
3. Accordingly, summary judgment should be entered for the plaintiffs and appropriate declaratory and injunctive relief should issue.
4. In support of this motion the plaintiffs rely on the following evidence as more specifically enumerated in the plaintiffs' memorandum of law submitted in support of this motion:
 - a. Affidavit of Associate Warden Church (Doc. No. 18-1).
 - b. Plaintiffs Second Amended Complaint (Doc. No. 86), and Defendant's Answer to Plaintiffs' Second Amended Complaint and Defendant's Affirmative Defenses [Doc. No. 88].
 - c. The first Deposition of Associate Warden Church (Doc. No. 55-1).

- d. Plaintiffs' First Request for Admissions and Defendants' Responses to Plaintiff's First Request for Admissions (Doc. No. 55-2).
- e. Supplemental Declaration of John Phillip Walker Lindh (Doc. No. 55-3).
- f. Affidavit of Ali Asad Chandia (Doc. No. 46-4).
- g. Affidavit of Brian Carr (Doc. No. 46-6).
- h. Declaration of Enaam Arnaout (Doc. No. 23-2).
- i. Declaration of John Phillip Walker Lindh (Doc. No. 23-1).
- j. Affidavit of Ahmed Bilal (Doc. No. 46-3).
- k. Affidavit of Avon Twitty (Doc. No. 46-5).
- l. Affidavit of Mokhtar Haouari (Doc. No. 46-7).
- m. Affidavit of Rafil Dhafir (Doc. No. 46-8).
- n. Declaration of Randall T. Royer (Doc. No. 55-4).
- o. Supplemental Declaration of Enaam Arnaout (Doc. No. 46-2).
- p. Excerpts of the Deposition of Timothy Coleman, Exhibit 1 to this Motion.
- q. Second Supplemental Declaration of John Phillip Walker Lindh, Exhibit 2 to this Motion.
- r. Supplemental Affidavit of Ali Asad Chandia, Exhibit 3 to this Motion.
- s. Supplemental Declaration of Brian Carr, Exhibit 4 to this Motion.
- t. Supplemental Affidavit of Mokhtar Haourari, Exhibit 5 to this Motion.
- u. Supplemental Affidavit of Rafil Dhafir, Exhibit 6 to this Motion.
- v. Second Supplemental Declaration of Enaam Arnaout, Exhibit 7 to this Motion.
- w. Memorandum of June 1, 2009, from Warden Jett, Exhibit 8 to this Motion. (Defendant's Response to Plaintiffs' Request for Production ¶ 2).
- x. Memorandum of August 10, 2009, from Warden Lockett, Exhibit 9 to this Motion. (Defendant's Response to Plaintiffs' Request for Production ¶ 3).

- y. Excerpts of the Second Deposition of Associate Warden Church, Exhibit 10 to this Motion.
 - z. Excerpts of the Deposition of Warden Charles Lockett, Exhibit 11 to this Motion.
5. In further support of this motion plaintiffs separately submit their memorandum of law which is incorporated by reference.

WHEREFORE, plaintiffs request that this Court grant them summary judgment in this cause declaring that the denial of congregate daily prayer to prisoners in the Communications Management Unit violates the Religious Freedom Restoration Act, enjoining defendant to allow such prayer to occur during the times that the prisoners are out of their cells, awarding plaintiffs their costs and reasonable attorney's fees, and further that the Court grant all other proper relief.

/s/ Kenneth J. Falk
Kenneth J. Falk
No. 6777-49
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
317/635-4059 ext. 104
fax: 317/635-4105

Attorney for Plaintiffs and
the Putative Class

Certificate of Service

I hereby certify that on this 29th day of August, 2010, a copy of the foregoing was filed electronically with the Clerk of this Court. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system and the parties may access this filing through the Court's system.

Thomas E. Kieper
Assistant United States Attorney
tom.kieper@usdoj.gov

William L. McCloskey

Assistant United States Attorney
William.mccoskey@usdoj.gov

/s/ Kenneth J. Falk
Kenneth J. Falk
Attorney at Law